

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2530

Introduced by Assembly Member Nielsen

February 19, 2010

An act to amend Section ~~51283~~ 51239 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2530, as amended, Nielsen. Local government: Williamson Act: ~~cancellation fees~~; *agricultural preserves: advisory board.*

Existing law, the Williamson Act, authorizes a city or county to enter into contracts to establish agricultural preserves. Existing law also authorizes the legislative body of a city or county to appoint an advisory board to advise the board on agricultural preserve matters.

This bill would specify matters on which the advisory board may advise the legislative body of a county or city. This bill would also state that the advisory board is not the exclusive mechanism through which the legislative body can receive advice on or address matters regarding agricultural preserves.

~~Existing law, the Williamson Act, requires the county treasurer to transmit any fees received in the county treasury as a result of a contract cancellation to the Controller and requires those funds to be deposited in the General Fund, as specified. Existing law continuously appropriates to the Controller from the General Fund a sum sufficient to make subvention payments for open-space lands, including land affected by a contract pursuant to the Williamson Act, to affected local governments.~~

~~This bill would direct the Legislature to dedicate fees collected for Williamson Act contract cancellations and transmitted by the county~~

treasurer to the Controller, and deposited in the General Fund, for allocation to the continuous appropriation for subvention payments for open-space lands.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 51239 of the Government Code is*
2 *amended to read:*

3 51239. The board or council may appoint an advisory board,
4 the members of which shall serve at the pleasure of the board or
5 council and may be paid their expenses. ~~They~~ *The advisory board*
6 shall advise the board or council on the administration of the
7 agricultural preserves in the county or city and on any matters
8 relating to contracts entered into pursuant to this ~~chapter~~ *chapter*;
9 *including, but not limited to, program benefits, costs, amendments,*
10 *and landowner participation. This section shall not be construed*
11 *to be the exclusive manner in which the board or council may*
12 *address agricultural preserve matters or receive advice regarding*
13 *agricultural preserve matters.*

14 ~~SECTION 1. Section 51283 of the Government Code is~~
15 ~~amended to read:~~

16 ~~51283. (a) Prior to any action by the board or council giving~~
17 ~~tentative approval to the cancellation of any contract, the county~~
18 ~~assessor of the county in which the land is located shall determine~~
19 ~~the current fair market value of the land as though it were free of~~
20 ~~the contractual restriction. The assessor shall certify to the board~~
21 ~~or council the cancellation valuation of the land for the purpose~~
22 ~~of determining the cancellation fee. At the same time, the assessor~~
23 ~~shall send a notice to the landowner and the Department of~~
24 ~~Conservation indicating the current fair market value of the land~~
25 ~~as though it were free of the contractual restriction and advise the~~
26 ~~parties, that upon their request, the assessor shall provide all~~
27 ~~information relevant to the valuation, excluding third-party~~
28 ~~information. If any information is confidential or otherwise~~
29 ~~protected from release, the department and the landowner shall~~
30 ~~hold it as confidential and return or destroy any protected~~
31 ~~information upon termination of all actions relating to valuation~~
32 ~~or cancellation of the contract on the property. The notice shall~~

1 also advise the landowner and the department of the opportunity
2 to request formal review from the assessor.

3 (b) Prior to giving tentative approval to the cancellation of any
4 contract, the board or council shall determine and certify to the
5 county auditor the amount of the cancellation fee that the
6 landowner shall pay the county treasurer upon cancellation. That
7 fee shall be an amount equal to 12 $\frac{1}{2}$ percent of the cancellation
8 valuation of the property.

9 (c) If it finds that it is in the public interest to do so, the board
10 or council may waive any payment or any portion of a payment
11 by the landowner, or may extend the time for making the payment
12 or a portion of the payment contingent upon the future use made
13 of the land and its economic return to the landowner for a period
14 of time not to exceed the unexpired period of the contract, had it
15 not been canceled, if all of the following occur:

16 (1) The cancellation is caused by an involuntary transfer or
17 change in the use which may be made of the land and the land is
18 not immediately suitable, nor will be immediately used, for a
19 purpose which produces a greater economic return to the owner.

20 (2) The board or council has determined that it is in the best
21 interests of the program to conserve agricultural land use that the
22 payment be either deferred or is not required.

23 (3) The waiver or extension of time is approved by the Secretary
24 of the Resources Agency. The secretary shall approve a waiver or
25 extension of time if the secretary finds that the granting of the
26 waiver or extension of time by the board or council is consistent
27 with the policies of this chapter and that the board or council
28 complied with this article. In evaluating a request for a waiver or
29 extension of time, the secretary shall review the findings of the
30 board or council, the evidence in the record of the board or council,
31 and any other evidence the secretary may receive concerning the
32 cancellation, waiver, or extension of time.

33 (d) The first two million five hundred thirty-six thousand dollars
34 (\$2,536,000) of revenue paid to the Controller pursuant to
35 subdivision (c) in the 2004-05 fiscal year, and any other amount
36 as approved in the final Budget Act for each fiscal year thereafter,
37 shall be deposited in the Soil Conservation Fund, which is
38 continued in existence. The money in the fund is available, when
39 appropriated by the Legislature, for the support of all of the
40 following:

1 ~~(1) The cost of the farmlands mapping and monitoring program~~
2 ~~of the Department of Conservation pursuant to Section 65570.~~

3 ~~(2) The soil conservation program identified in Section 614 of~~
4 ~~the Public Resources Code.~~

5 ~~(3) Program support costs of this chapter as administered by~~
6 ~~the Department of Conservation.~~

7 ~~(4) Program support costs incurred by the Department of~~
8 ~~Conservation in administering the open-space subvention program~~
9 ~~(Chapter 3 (commencing with Section 16140) of Part 1 of Division~~
10 ~~4 of Title 2).~~

11 ~~(5) The costs to the Department of Conservation for~~
12 ~~administering Section 51250.~~

13 ~~(e) When cancellation fees required by this section are collected,~~
14 ~~they shall be transmitted by the county treasurer to the Controller~~
15 ~~and deposited in the General Fund, for allocation pursuant to~~
16 ~~Chapter 3 (commencing with Section 16140) of Division 4 of Title~~
17 ~~2, except as provided in subdivision (d) of this section and~~
18 ~~subdivision (b) of Section 51203. The funds collected by the county~~
19 ~~treasurer with respect to each cancellation of a contract shall be~~
20 ~~transmitted to the Controller within 30 days of the execution of a~~
21 ~~certificate of cancellation of contract by the board or council, as~~
22 ~~specified in subdivision (b) of Section 51283.4.~~

23 ~~(f) It is the intent of the Legislature that fees paid to cancel a~~
24 ~~contract do not constitute taxes but are payments that, when made,~~
25 ~~provide a private benefit that tends to increase the value of the~~
26 ~~property.~~